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its wrongful death. *Dietrich* v. *Northampton,* 138 Mass. 14, 52 Am. Rep. 242. As the plaintiff in the principal case could not have been born viable when the injury occurred, the decision seems sound.

MASTER AND SERVANT—DUTY TO INSTRUCT—HOW TO AVOID INJURY.—Plaintiff's intestate was employed by defendant as a telephone lineman. Telephone lines were being put up on cross-arms to poles upon which high power electric wires were stretched. He was set to work "clipping cables," after being shown how to make only one clipping by a fellow employee; he was, however, warned two or three times that the wires were live wires and that they would kill him if he came in contact with them. While engaged in making his first clipping without assistance, he touched one of the electric wires and was instantly killed. *Held,* the defendant is not liable. *Bristol Telephone Co.* v. *Stockton's Adm'r.* (Va.), 90 S. E. 636.

Stated in the most general terms, the extent of the master's obligation in regard to imparting information to a servant is to give him "such instruction as will enable him to avoid injury." 1 LABATT, MASTER AND SERVANT, § 252. See *Atlas Engine Works* v. *Randall,* 100 Ind. 293, 50 Am. Rep. 798. Where a person of ordinary intelligence is employed to do dangerous work with which he is unfamiliar, a mere warning that the work is dangerous and that he must be careful, in the absence of any instruction how to avoid the danger involved, is not sufficient to relieve the employer of liability. *American Strawboard Co.* v. *Foust,* 12 Ind. App. 421, 39 N. E. 891. Thus, where a railroad company employs one unfamiliar with the work of a brakeman, it was its duty not only to warn him of the danger incident to the work, but to show him how the work might be done safely. *Reynolds* v. *Boston, etc., Ry. Co.,* 64 Vt. 66, 24 Atl. 134. Again, where a servant is put to work painting near electric machinery, and is injured while so engaged, on account of a failure to instruct him how to avoid the danger involved, the master is liable. *Dirken* v. *Great N. Paper Co.,* 110 Me. 374, 86 Atl. 320, Ann. Cas., 1914D, 396. And where an inexperienced servant is employed at dangerous machinery the master is bound to give him such instruction as will cause him to appreciate and understand the danger of the employment. *Quinn* v. *Electric Laundry Co.,* 155 Cal. 500, 101 Pac. 794, 17 Ann. Cas. 1100.

Whether the servant has been sufficiently instructed is primarily a question for the jury, and their findings should not be interfered with where different inferences may be drawn from the evidence. 1 LABATT, MASTER AND SERVANT, § 252; *Reynolds* v. *Boston, etc., Ry. Co., supra; McDougall* v. *Ashland Sulphite-Fibre Co.,* 97 Wis. 382, 73 N. W. 327; *Kochman* v. *Chase,* 32 App. Div. 630, 52 N. Y. Supp. 740. See *Fisher's Adm'r.* v. *Chesapeake & O. Ry. Co.,* 104 Va. 635, 52 S. E. 373, 2 L. R. A. (N. S.) 954; *Wood's Adm'r.* v. *Southern Ry. Co.,* 104 Va. 650, 52 S. E. 371. And if the evidence is such that a jury might have found a verdict for the demurree, then on a demurrer to the evidence, the court must so find. *Citizen's Bank* v. *Taylor,* 104 Va. 164, 51 S. E. 159; *Milton's Adm'r.* v. *Norfolk & W. Ry. Co.,* 108 Va. 752, 62 S. E. 960.

In the principal case, the court perhaps overlooked the distinction be-

tween a mere warning and the duty to instruct the plaintiff how to avoid the danger. It would seem also that due weight was not given to the fact that the case was on a demurrer to the evidence, where every presumption is against the demurrant.

MASTER AND SERVANT—WORKMEN'S COMPENSATION ACT—WHO IS AN EMPLOYEE.—The plaintiff was president of a small corporation from which he received a salary, and owned a great majority of its stock. He was accustomed to assist in the manual labor of the establishment, and while so engaged he was injured. He sued the corporation for damages, under the Workmen's Compensation Act, claiming to be an employee. *Held*, the plaintiff can recover. *Browne* v. *S. W. Browne Co., et al.*, 162 N. Y. Supp. 244.

The Workmen's Compensation Acts which have, in recent years, been enacted in the majority of the states of the Union are remedial in their nature, and should be given a liberal construction so as to effectuate the purpose for which they were adopted. *Appeal of Hotel Bond Co.*, 89 Conn. 143, 93 Atl. 245. See *Coakley* v. *Coakley*, 216 Mass. 71, 102 N. E. 930.

It is essentially necessary under these acts, before any person can be considered an employee, that he be engaged under a contract of employment expressed or implied—in short, the relation of master and servant must exist. *Hillestad* v. *Industrial Ins. Com.*, 80 Wash. 426, 141 Pac. 913, 40 Ann. Cas. 789; *Susznik* v. *Alger Logging Co.*, 76 Or. 189, 147 Pac. 922; *Doggett* v. *Waterloo Taxicab Co.*, (1910) 2 K. B. 336. 1 HONNOLD, WORKMEN'S COMPENSATION, § 51. And one who receives no wages but performs the work voluntarily is not to be deemed an employee. *Kemp* v. *Lewis*, (1914) 3 K. B. 543. The fact that the employee obtained the contract of service by misrepresentation, rendering it voidable at the election of the employer, would not, of itself, seem to affect his status as an employee with respect to the employer's obligations to him arising under the statute. See *Kenny* v. *Union Ry. Co.*, 166 App. Div. 497, 152 N. Y. Supp. 117. But it seems, on principle, that if the contract is illegal, or prohibited by law, the status of the employee is affected. See *Kemp* v. *Lewis, supra; Hillestad* v. *Industrial Ins. Com., supra.*

Under the English Compensation Act the term "workman" does not include a person whose employment is of a "casual nature." *Hill* v. *Begg*, (1908) 2 K. B. 802. And generally, provisions of a similar import are to be found in the American statutes. See 1 HONNOLD, WORKMEN'S COMPENSATION, § 62. But the American courts, in this connection, have adopted a very liberal rule of construction. *Schaeffer* v. *De Grottola*, 85 N. J. L. 444, 89 Atl. 921, 4 N. C. C. A. 582. State and municipal employees are included in the provisions of most of the statutes. *State* v. *District Court* (Minn.), 158 N. W. 790. See 1 HONNOLD, WORKMEN'S COMPENSATION, § 53. But public officers are not considered as employees within the provisions of the several acts. *Sibley* v. *State* (Conn.), 96 Atl. 161.

The true test by which to determine whether one person is another's employee under the Compensation Acts is to ascertain whether the alleged employer possesses the power to control the other person in re-